

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

JASON DEAN GALBRAITH,)	
)	
Plaintiff,)	
)	
)	CIV-15-277-W
v.)	
)	
GARFIELD COUNTY JAIL, et al.,)	
)	
Defendants.)	

REPORT AND RECOMMENDATION

Plaintiff, a pretrial detainee appearing *pro se* and *in forma pauperis*, has filed this civil rights action pursuant to 42 U.S.C. § 1983. The matter has been referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B). For the following reasons, it is recommended that the cause of action be dismissed without prejudice.

Plaintiff filed his Complaint in this action on March 19, 2015. Plaintiff stated in the Complaint that he is a pretrial detainee being detained in the Garfield County Jail. The Complaint alleges numerous deprivations stemming from the conditions of his confinement in the Garfield County Jail, and names as Defendants the Garfield County Jail, the Garfield County Medical Staff, and Ms. Gay, a nurse at the Garfield County Jail.

In the Order entered April 8, 2015 (Doc. # 12), Plaintiff was provisionally allowed to proceed *in forma pauperis* in this action without prepayment of any portion of the required filing fee. Because the Complaint failed to satisfy the requirements of Fed. R. Civ. P. 8(a) and failed to state a claim upon which relief may be granted as to any Defendant, Plaintiff

was directed in the Order (Doc. # 12) to file an amended complaint to cure those deficiencies on or before May 8, 2015.

Following the entry of the Order (Doc. # 12), Plaintiff has filed a collection of exhibits (Doc. # 13), a letter addressed to the undersigned Magistrate Judge requesting to be transferred to a different detention facility (Doc. # 14), and a letter addressed to the Court Clerk containing numerous allegations of inadequate treatment at the jail and copies of several request to staff and grievance forms (Doc. # 15). However, to this date, Plaintiff has not complied with the Order by filing an amended complaint or sought an extension of time to do so.

Plaintiff's lack of interest in complying with the Court's Order combined with the Court's attempt to manage and control its caseload warrant a dismissal of the cause of action without prejudice. See Gripe v. City of Enid, 312 F.3d 1184, 1188 (10th Cir. 2002)("The Federal Rules of Civil Procedure authorize sanctions, including dismissal . . . for failing to comply with court rules or any order of the court, see Fed.R.Civ.P. 41(b)"). See also Nasious v. Two Unknown B.I.C.E. Agents at Arapahoe County Justice Ctr., 492 F.3d 1158, 1161 n. 2, 1162 (10th Cir. 2007)(*sua sponte* dismissal for failure to comply with court's orders permitted under federal rules, and court need not follow any particular procedures in dismissing action without prejudice for failure to comply).

RECOMMENDATION

Based on the foregoing findings, it is recommended that Plaintiff's cause of action be DISMISSED without prejudice for failure to comply with the Court's Orders. Plaintiff is

advised of the right to file an objection to this Report and Recommendation with the Clerk of this Court by June 3rd, 2015, in accordance with 28 U.S.C. § 636 and Fed. R. Civ.

P. 72. The failure to timely object to this Report and Recommendation would waive appellate review of the recommended ruling. Moore v. United States, 950 F.2d 656 (10th Cir. 1991); cf. Marshall v. Chater, 75 F.3d 1421, 1426 (10th Cir. 1996)(“Issues raised for the first time in objections to the magistrate judge’s recommendation are deemed waived.”).

This Report and Recommendation disposes of all issues referred to the undersigned Magistrate Judge in the captioned matter, and any pending motion not specifically addressed herein is denied.

ENTERED this 14th day of May, 2015.


GARY M. PURCELL
UNITED STATES MAGISTRATE JUDGE